



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2015-0269; FRL-9933-04-Region 7]

Partial Approval and Disapproval of Air Quality Implementation Plans; Nebraska; Revision to the State Implementation Plan (SIP) Infrastructure Requirements for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards and the Revocation of the PM₁₀ Annual Standard and Adoption of the 24hr PM_{2.5} Standard.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to partially approve and disapprove elements of a State Implementation Plan (SIP) submission from the State of Nebraska addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 1997 and 2006 National Ambient Air Quality Standards (NAAQS) for fine particulate matter (PM_{2.5}), which requires that each state adopt and submit a SIP to support implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as "infrastructure" SIPs. The infrastructure

requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. Additionally, EPA is taking final action approving the revocation of the coarse particulate matter (PM₁₀) annual standard and adoption of the 24hr PM_{2.5} standard.

DATES: This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2015-0269. All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or at U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219 from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Crable, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219; *telephone number:* (913) 551-7391; *fax number:* (913) 551-7065; *email address:* crable.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. Background
- II. Summary of SIP Revision
- III. Final Action
- IV. Statutory and Executive Order Review

I. Background

On May 28, 2015, (80 FR 30404), EPA published a notice of proposed rulemaking (NPR) for the State of Nebraska. The NPR proposed partial approval and disapproval of Nebraska's submission that provides the basic elements specified in section 110(a)(2) of the CAA, or portions thereof, necessary to implement, maintain, and enforce the 1997 and 2006 PM_{2.5} NAAQS. At the same time, EPA proposed approval of the revocation of the PM₁₀ annual standard and adoption of the 24 hr. PM_{2.5} NAAQS standard.

II. Summary of SIP Revision

On April 3, 2008, EPA received a SIP submission from the state of Nebraska that addressed the infrastructure elements specified in section 110(a)(2) for the 1997 PM_{2.5} NAAQS. Then on

August 29, 2011, EPA received a second SIP submission addressing the infrastructure elements specified in section 110(a)(2) for the 2006 PM_{2.5} NAAQS. Both submissions addressed the following infrastructure elements of section 110(a)(2): (A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). Specific requirements of section 110(a)(2) of the CAA and the rationale for EPA's proposed action to approve and disapprove the SIP submissions are explained in the NPR and will not be restated here. No public comments were received on the NPR.

Finally, a third submission was received by the EPA on November 14, 2011, as a part of a larger submission dealing with various title 129 revisions, which we will address at a later date. This submission revises Chapter 4, Title 129 of the Nebraska Administrative Code. The change repeals the annual NAAQS for PM₁₀ which was revoked by the EPA on October 17, 2006, and adopts the new 24-hour PM_{2.5} NAAQS which was issued by EPA, at the same time (71 FR 61144).

III. Final Action

EPA is approving Nebraska's April 3, 2008, and August 29, 2011, submissions for the 1997 and 2006 PM_{2.5} NAAQS respectively. Specifically, EPA approves the following infrastructure elements: 110(a)(2)(A), (B), (C), (D)(i)(II) (prong 3), (D)(ii) (E), (F), (G), (H), (J), (K), (L), and (M) of the CAA, or portions thereof, necessary to implement, maintain, and enforce

the 1997 and 2006 PM_{2.5} NAAQS, as a revision to the Nebraska SIP. At the same time, EPA is disapproving 110(a)(2)(D)(i)(II) (prong 4) as it relates to the protection of visibility. As discussed in each applicable section of the NPR, EPA is not acting on section 110(a)(2)(D)(i)(I) (prongs 1 and 2), and section 110(a)(2)(I) - Nonattainment Area Plan or Plan Revisions Under part D. And finally, EPA is approving the November 14, 2011 SIP submittal repealing the annual NAAQS for PM₁₀ and adopting the new 24hr PM_{2.5} NAAQS.

IV. Statutory and Executive Order Review

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Nebraska regulations for Ambient Air Quality Standards and the EPA approved Nebraska nonregulatory provisions described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

Under the CAA the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to

approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress

and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate matter, Reporting and recordkeeping requirements.

Dated: August 17, 2015.

Mark Hague,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart CC - Nebraska

2. Amend §52.1420 by:

a. Under paragraph (c) in the table entitled "EPA-Approved Nebraska Regulations", revising the entry for "129-4"; and

b. Under paragraph (e), in the table entitled "EPA-Approved Nebraska Nonregulatory Provisions", adding an entry for (30) in numerical order.

The revisions and additions read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Explanation
STATE OF NEBRASKA				
Department of Environmental Quality				
Title 129-Nebraska Air Quality Regulations				
* * * * *				
129-4	Ambient Air Quality Standards	8/18/08	[Insert date of Federal Register publication and insert	This revision to Chapter 4 repeals the annual National Ambient Air Quality Standard (NAAQS) for

Nebraska citation	Title	State effective date	EPA approval date	Explanation
			<u>Federal Register</u> page number where the document begins]	PM ₁₀ and adopts the Federal 24-hour NAAQS for PM _{2.5} . The standard was reduced from 65 to 35 micrograms per cubic meter by EPA on December 18, 2006.
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(e) * * *

EPA-APPROVED NEBRASKA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic area or Nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				
(30) Section 110(a)(2) Infrastructure Requirements for the 1997 and 2006 PM _{2.5} NAAQS.	Statewide	4/3/08 8/29/11	[Insert <u>Federal Register</u> date of publication date] and [Insert <u>Federal Register</u> citation]	This action addresses the following CAA elements 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

[FR Doc. 2015-21018 Filed: 8/26/2015 08:45 am; Publication Date: 8/27/2015]